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HSBC MORTGAGE CORPORATION (USA) and  
HSBC BANK USA, N.A.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Philip Wong, Frederic Chaussy, and Leslie Marie Shearn, individually, on behalf of all others similarly situated, and on behalf of the general public,

## Plaintiffs.

V.

HSBC Mortgage Corporation (USA);  
HSBC Bank USA, N.A.; and DOES 1  
through 50, inclusive.

## Defendants.

Case No. C 07 2446 MMC [ECF]

**[PROPOSED] ORDER STRIKING  
EVIDENCE SUBMITTED IN SUPPORT  
OF PLAINTIFFS' MOTION FOR CLASS  
CERTIFICATION UNDER  
FED.R.CIV.P. 23**

Date: October 10, 2008  
Time: 9:00 a.m.  
Courtroom: 7 (19th Floor)  
Judge: Hon. Maxine M. Chesney

On October 10, 2008, Plaintiffs' Motion for Class Certification Under Federal Rule of Civil Procedure 23 ("Rule 23 Class Certification Motion") came on for hearing at 9:00 a.m. before the Honorable Maxine M. Chesney. Plaintiffs and Defendants were both represented by counsel.

For all the reasons set forth in Defendants' Objections to Evidence Submitted By Plaintiffs' In Support of Motion For Class Certification Under Fed.R.Civ.P 23, the record herein, and based on the arguments of counsel, the Court orders as follows:

1. Information or "evidence" listed in the Declaration of Bryan J. Schwartz, Esq. in Support of Plaintiffs' Motion for Class Certification ("Schwartz Declaration") at paragraph 28, page 4, lines 11 to 17, and all references to the same in Plaintiffs' Rule 23 Class Certification Motion to this inadmissible evidence located at page 8, lines 9 to 13 shall be stricken.

2. Information or "evidence" listed in the Schwartz Declaration at paragraph 28, page 4, lines 17 to 19, and all references in Plaintiffs' Rule Class Certification Motion to this inadmissible evidence located at page 8, lines 15 to 17, and page 20, lines 11 to 12 shall be stricken.

3. Information or "evidence" listed in the Schwartz Declaration at paragraph 29, page 4, lines 24 to 28, and all references in Plaintiffs' Rule 23 Class Certification Motion located at page 8, lines 17 to 19, and page 20, lines 15 to 17 shall be stricken.

4. Information or "evidence" listed in the Schwartz Declaration at paragraph 30, page 5, lines 1 to 3, and all references in Plaintiffs' Rule 23 Class Certification Motion to this inadmissible statement and opinion are located at page 8, lines 20 to 23 shall be stricken.

5. Information or "evidence" listed in the Schwartz Declaration at paragraph 30, page 5, lines 3 to 6, and all references in Plaintiffs' Rule 23 Class Certification Motion to this inadmissible evidence located at page 9, lines 2 to 3 shall be stricken.

6. Information or "evidence" listed in the Schwartz Declaration at paragraph 32, page 5, lines 16 to 19, and all references in Plaintiffs' Rule 23 Class Certification Motion to this inadmissible evidence located at page 14, lines 8 to 9, and page 24, lines 7 to 10 shall be stricken.

7. Information or "evidence" listed in the Schwartz Declaration at paragraph 33, page 5, lines 21 to 22, and all references in Plaintiffs' Rule 23 Class Certification Motion to this inadmissible evidence located at page 14, 7 to 10, and page 24, lines 2 to 3 shall be stricken.

1                   8.     Information or "evidence" listed in the Schwartz Declaration at paragraph 33,  
 2 page 6, lines 2 to 7, and all references in Plaintiffs' Rule 23 Class Certification Motion to this  
 3 inadmissible evidence located at page 14, 7 to 10, and page 24, lines 2 to 3 shall be stricken.

4                   9.     Information or "evidence" listed in the Schwartz Declaration at paragraph 36,  
 5 page 7, lines 1 to 3, and all references in Plaintiffs' Rule 23 Class Certification Motion to this  
 6 inadmissible evidence located at page 19, footnote 37, lines 27 to 28 shall be stricken.

7                   10.    Information or "evidence" listed in the Schwartz Declaration at paragraph 37,  
 8 page 7, lines 4 to 9, and all references in Plaintiffs' Rule 23 Class Certification Motion to this  
 9 inadmissible evidence located at page 21, lines 6 to 9 shall be stricken.

10                  11.    Information or "evidence" listed in the Schwartz Declaration at paragraph 39,  
 11 page 7, lines 14 to 17, and references in Plaintiffs' Rule 23 Class Certification Motion to this  
 12 inadmissible evidence located at page 22, lines 8 to 12 shall be stricken.

13                  12.    Information or "evidence" listed in the Schwartz Declaration at paragraph 40,  
 14 page 7, lines 18 to 25, and all references in Plaintiffs' Rule 23 Class Certification Motion to this  
 15 inadmissible evidence located at page 23, lines 10 to 15 shall be stricken.

16                  13.    Information or "evidence" listed in the Schwartz Declaration at paragraph 41,  
 17 page 7, lines 26 to 28 and page 8, lines 1 to 6, and all reference in Plaintiffs' Rule 23 Class  
 18 Certification Motion to this inadmissible evidence located at page 23, lines 16 to 19 shall be stricken.

19                  14.    Information or "evidence" listed in the Schwartz Declaration at paragraph 42,  
 20 page 8, lines 7 to 8, and all references in Plaintiffs' Rule Class Certification Motion to this  
 21 inadmissible evidence located at page 24, lines 7 to 8 shall be stricken.

22                  15.    Information or "evidence" listed in the Schwartz Declaration at paragraph 44,  
 23 page 8, lines 15 to 21, and all references in Plaintiffs' Rule 23 Class Certification Motion to this  
 24 inadmissible evidence located at page 3, footnote 13, lines 24 to 26 shall be stricken.

25                  16.    Vague and misleading references to "HSBC" shall be stricken from page 1,  
 26 paragraph 1 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

27                  17.    Vague and misleading references to "HSBC" shall be stricken from page 1,  
 28 paragraph 2 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

1           18.    Vague and misleading references to "HSBC" shall be stricken from page 1,  
 2 paragraph 3 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration, as well as from  
 3 Plaintiffs' Rule 23 Class Certification Motion, which is located at page 3, lines 3 to 6.

4           19.    Vague and misleading references to "HSBC" shall be stricken from page 2,  
 5 paragraph 5 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

6           20.    Vague and misleading references to "HSBC" shall be stricken from page 2,  
 7 paragraph 6 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

8           21.    Vague and misleading references to "HSBC" shall be stricken from page 2,  
 9 paragraph 7 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

10          22.    Vague and misleading references to "HSBC" shall be stricken from page 2,  
 11 paragraph 8 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

12          23.    Vague and misleading references to "HSBC" shall be stricken from page 1,  
 13 paragraph 1 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

14          24.    Vague and misleading references to "HSBC" shall be stricken from page 1,  
 15 paragraph 2 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

16          25.    Vague and misleading references to "HSBC" shall be stricken from page 1,  
 17 paragraph 3 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

18          26.    Vague and misleading references to "HSBC" shall be stricken from page 2,  
 19 paragraph 4 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

20          27.    Vague and misleading references to "HSBC" shall be stricken from page 2,  
 21 paragraph 6 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

22          28.    Inadmissible evidence shall be stricken from page 2, paragraph 7 of Exhibit 9  
 23 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

24          29.    Vague and misleading references to "HSBC" shall be stricken from page 2,  
 25 paragraph 8 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

26          30.    Vague and misleading references to "HSBC" shall be stricken from page 1,  
 27 paragraph 1 of Exhibit 10 (Declaration of Chad Barbire) to the Schwartz Declaration.

31. Vague and misleading references to “HSBC” shall be stricken from page 1, paragraph 2 of Exhibit 10 (Declaration of Chad Barbiere) to the Schwartz Declaration.

32. Vague and misleading references to “HSBC” shall be stricken from page 1, paragraph 3 of Exhibit 10 (Declaration of Chad Barbiere) to the Schwartz Declaration.

33. Vague and misleading references to “HSBC” shall be stricken from page 2, paragraph 4 of Exhibit 10 (Declaration of Chad Barbiere) to the Schwartz Declaration.

34. Vague and misleading references to “HSBC” shall be stricken from page 2, paragraph 6 of Exhibit 10 (Declaration of Chad Barbiere) to the Schwartz Declaration.

35. Vague and misleading references to “HSBC” shall be stricken from page 2, paragraph 7 of Exhibit 10 (Declaration of Chad Barbiere) to the Schwartz Declaration.

36. Vague and misleading references to “HSBC” shall be stricken from page 2, paragraph 8 of Exhibit 10 (Declaration of Chad Barbiere) to the Schwartz Declaration.

37. The anonymous declaration submitted by Plaintiffs as Exhibit 15 to the Schwartz Declaration shall also be stricken on the grounds that it fails to establish that the anonymous witness has personal knowledge the facts at issue. Moreover vague, misleading references to "HSBC" should be stricken from page 1, paragraph 1 to 3 of Exhibit 15 to the Schwartz Declaration. Further, references to this inadmissible declaration and/or the evidence therein located at page 8, lines 20 to 25, and page 20, lines 11 to 12 should be stricken from Plaintiffs' Rule 23 Class Certification Motion.

38. Exhibits 20 to 23 to the Schwartz Declaration should also be stricken for failure to follow the procedural requirements for judicial notice under Federal Rule of Evidence 201.

## IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2008

## THE HONORABLE MAXINE M. CHESNEY